

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

THOMAS SMITH,

Plaintiff,

v.

Case No. 23-cv-1176-pp

SHELBY WENDRICK, FPS EITING
and JUSTIN SEGERSTROM,

Defendant.

**ORDER DISMISSING CASE FOR PLAINTIFF'S FAILURE TO PAY INITIAL
PARTIAL FILING FEE**

On October 3, 2023, the court issued an order stating that if the plaintiff wanted to continue with this lawsuit, then by the end of the day on October 30, 2023, he must pay \$16.17 as an initial partial filing fee. Dkt. No. 7. The court's order stated that if the plaintiff did not pay the initial partial filing fee, or file a request for more time to pay it, in time for the court to receive it by that deadline, the court would dismiss the case and the plaintiff still would owe the \$350 filing fee. Id.

When the plaintiff filed the complaint, he said that he was at Green Bay Correctional Institution. Dkt. No. 1 at 1. The Wisconsin Department of Corrections locator web site indicates that the plaintiff remains at Green Bay as of the date of this order. <https://appsdoc.wi.gov/lop/details/detail>. The court has not received a change-of-address notice from the plaintiff. The court sent its October 3, 2023 order to the plaintiff at Green Bay Correctional

Institution, and it was not returned as undeliverable. The court has no reason to believe that the plaintiff did not receive the court's order.

Because the court did not receive the initial partial filing fee, or a request for more time to pay it, by the October 30, 2023 deadline, the court will dismiss the case without prejudice for the plaintiff's failure to pay the initial partial filing fee.

The law requires any incarcerated person who files a civil lawsuit to pay the statutory filing fee. 28 U.S.C. §1915(b)(1). The court will collect the \$350 statutory filing fee.

The court **DENIES AS MOOT** the plaintiff's motion for leave to proceed without prepayment of the filing fee. Dkt. No. 2.

The court **ORDERS** that this case is **DISMISSED WITHOUT PREJUDICE** because the plaintiff did not pay the initial partial filing fee by the deadline the court set. The clerk will enter judgment accordingly.

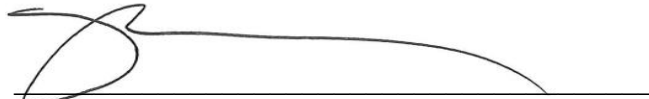
The court **ORDERS** that the agency that has custody of the plaintiff must collect from his institution trust account the **\$350** filing fee by collecting monthly payments from the plaintiff's prison trust account in an amount equal to 20% of the preceding month's income credited to the plaintiff's trust account and forwarding payments to the clerk of court each time the amount in the account exceeds \$10 in accordance with 28 U.S.C. §1915(b)(2). The agency must clearly identify the payments by the case name and number. If the plaintiff transfers to another county, state or federal institution, the

transferring institution must forward a copy of this order, along with the plaintiff's remaining balance, to the receiving institution.

The court will send a copy of this order to Warden at Green Bay Correctional Institution.

Dated in Milwaukee, Wisconsin this 9th day of November, 2023.

BY THE COURT:

A handwritten signature in black ink, appearing to be 'P. Pepper', written over a horizontal line.

HON. PAMELA PEPPER
Chief United States District Judge